

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

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|---------------------|---|-----------------------|
| CLAUDE M. BYRD, II, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | Case No. CIV-16-396-M |
| |) | |
| TRACY MCCOLLUM, |) | |
| |) | |
| Respondent. |) | |

ORDER


On April 28, 2016, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation in this action brought pursuant to 28 U.S.C. § 2254, seeking a writ of habeas corpus. The Magistrate Judge recommended that the habeas petition be dismissed without prejudice on screening. The parties were advised of their right to object to the Report and Recommendation by May 16, 2016. On May 18, 2016, petitioner filed a Motion for Stay and Hold in Abeyance, requesting this Court to stay this matter until such time as all of petitioner's state remedies had been exhausted. Having reviewed this matter de novo, the Court finds that petitioner would suffer no prejudice if this case were dismissed without prejudice rather than stayed pending the exhaustion of his state remedies and that dismissal without prejudice would be a more appropriate disposition of this matter.

Accordingly, the Court:

- (1) ADOPTS the Report and Recommendation [docket no. 5] issued by the Magistrate Judge on April 28, 2016;
- (2) DENIES petitioner's Motion for Stay and Hold in Abeyance [docket no. 6], and

(3) DISMISSES petitioner's petition for writ of habeas corpus without prejudice.

IT IS SO ORDERED this 19th day of May, 2016.


VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE